

**THE HONORABLE PAUL B. SNYDER**  
**CHAPTER 13**  
**HEARING DATE:** March 4, 2010  
**HEARING TIME:** 1:00 p.m.  
**LOCATION:** TACOMA, WASHINGTON  
**RESPONSE DATE:** February 25, 2010

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

In Re: ) Case #09-49409  
ROBERT W. DIETZ, )  
JOAN M. DIETZ, )  
Debtors. ) **OBJECTION TO EXEMPTION  
AND NOTICE OF HEARING ON  
OBJECTIONS**

## **NOTICE**

**YOU ARE HEREBY NOTIFIED** that a hearing on Trustee's Objection to Exemptions will be heard before The Honorable Paul B. Snyder on **March 4, 2010 at 1:00 p.m.** at the Union Station, 1717 Pacific Avenue, **Courtroom H**, Tacoma, Washington, 98402.

If you choose to respond to this motion, you must do so by **February 25, 2010** by serving a copy of your response to The Clerk of the Court and on the Chapter 13 Trustee. If you fail to do so, the Court may enter an order granting the motion without any hearing and without any further notice to you.

David M. Howe  
Chapter 13 Trustee  
1551 Broadway, Suite 600  
Tacoma, WA 98402  
(253) 572-6600

## **OBJECTION**

**COMES NOW** David M. Howe the Standing Chapter 13 Trustee and objects to exemptions claimed by the Debtors in Schedule C under 11 U.S.C. § 522(d)(5) for payments in the amount \$16,800.00, made prior to the bankruptcy filing, by the Debtors to MARY DIETZ, who is ROBERT DIETZ's mother, and payments in the amount of \$4,400.00, made prior to the bankruptcy filing by the Debtors to CAROL EVANS, who is JOAN DIETZ's mother. Under 11 U.S.C. §§522(g) and (h), a debtor is not entitled to exempt property that a trustee recovers under one of the trustee's avoiding powers if the property was voluntarily transferred . In this case, parents made to the Debtors payments were voluntary transfers. The Trustee anticipates taking steps to recover payments which appear to be avoidable preferences under 11 U.S.C. 547(b), including payments made by the Debtors to family members within a year of the following.

This Chapter 13 case was filed on December 16, 2009, and the first meeting of creditors took place on January 21, 2010. Less than 30 days has passed since the first meeting of creditors.

14           **WHEREFORE**, the exemptions claimed by the Debtors under 11 U.S.C.  
15 §522(d)(5) in Schedule C for payments made prior to the filing to their parents  
should be denied.

17 | **DATED** this 26<sup>th</sup> day of January, 2010.

/s/ David M. Howe  
DAVID M. HOWE, Chapter 13 Trustee

David M. Howe  
Chapter 13 Trustee  
1551 Broadway, Suite 600  
Tacoma, WA 98402  
(253) 572-6600

1  
**CERTIFICATE OF MAILING**

2 I declare under penalty of perjury under the laws of the State of Washington that I  
3 mailed via regular mail a true and correct copy of the Trustee's Objection to Exemptions  
and Notice of Hearing to the following:

4 Robert & Joan Dietz  
5 323 Summit Avenue  
Fircrest, WA 98466

Christina Latta Henry  
705 Second Ave., Suite 1050  
Seattle, WA 98104

6 GE Money Bank  
7 c/o Office Manager  
Recovery Management Systems Corp.  
8 25 SE 2<sup>nd</sup> Ave., #1120  
Miami, FL 33131-1605

Marix Servicing, LLC  
c/o Office Manager  
1925 W. Pinnacle Peak Rd.  
Phoenix, AZ 85027

9 The following parties were noticed via ECF:

10 Christina Latta Henry, Attorney for Debtors  
11 Camille V. Nightingale  
U.S. Trustee

12 Executed at Tacoma, Washington on the 26<sup>th</sup> day of January, 2010.

14 \_\_\_\_\_  
15 /s/ Tracy Becker  
TRACY BECKER

24 David M. Howe  
25 Chapter 13 Trustee  
1551 Broadway, Suite 600  
Tacoma, WA 98402  
(253) 572-6600